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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/973,136	10/09/2001	John V. Legge	AMU1-BN20a	5172
21611	7590	10/15/2004		EXAMINER
SNELL & WILMER LLP				MOSSER, ROBERT E
1920 MAIN STREET				
SUITE 1200			ART UNIT	PAPER NUMBER
IRVINE, CA 92614-7230			3714	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/973,136	Applicant(s) LEGGE ET AL.
Examiner	Art Unit 3714	
Robert Mosser		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 June 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-50 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-50 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_ .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_ .

**DETAILED ACTION**

◆

**Responsive to amendment filed 6-14-2004.**

**This action is non-final.**

**Claims 1-50 are pending.**

◆

***Terminal Disclaimer***

The terminal disclaimer filed on June 14<sup>th</sup>, 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6,629,019 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-6, 14, 15, 17, 18, and 20 rejected under 35 U.S.C. 102(b) as being anticipated by Koeznar et al (US 5,124,535).

Koeznar teaches an activity management system including a client transponder (Figure 3) with memory (Col 6:34-50), an activity station further including and inductive transmission system mounted to an access control device (Figure 6), and a memory unit (Col 6:45-47). Koeznar further teaches that the access control devices may include ski lifts, turnstiles, and barriers (Col 2:11-30)

Koennar teaches the inclusion of a computer (Col 7:1-5) connected to the activity station, which is interpreted as the claimed networked management station connected via network with the activity station.

Koennar teaches the inspection of data including expiration dates (criteria) on the portable transponder.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 7-14, 16, 17-19, and 20-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koeznar et al (US 5,124,535) in view of Malec et al (US 5,287,266).

Regarding 14, 16, 23-26, and 28, Koeznar teaches an activity management system including a client transponder (Figure 3) with memory (Col 6:34-50), an activity

station including a processor and memory further including and inductive transmission system mounted to an access control device (Figure 6), and a memory unit (Col 6:45-47). Koeznar further teaches that the access control devices may include ski lifts, turnstiles, and barriers (Col 2:11-30)

Koeznar teaches the inclusion of a computer (Col 7:1-5) but is silent regarding the networked management station connected with the activity station. In a related invention Malec et al teaches the use of a management station in a networked communication with activity stations in a transponder system (Figure 1 & Col 4:33-5:22). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the networked management station of Malec into the invention to Koeznar in order to allow for data logging that maybe used for billing control or alternatively customer tracking.

Regarding claims **3, 19, 21, 22, 31, 33-35, and 42-44**, Koeznar teaches the use of a data carrier with an activity station for limiting the access and ingress as set forth above including turnstiles (Figure 6), toll booths, ski lifts (Col 2:30), and gates (Col 7:3) but is silent regard the embodiments of a ticketing booth, an amusement park attraction, a subway, a hospital, a correctional facility, and a ski run. It would have been obvious to one of ordinary skill in the art at the time of invention to have used the gates taught by Koeznar to control access to a ticketing booth, an amusement park attraction, and a ski run in to control access to such.

Regarding claims **7-13, 17-18, 20, 23, 24, 32, 36-38, 40-41, 45-47**, and **50** Koeznar teaches the use of a data carrier with an activity station for limiting the access and ingress as set forth above but is silent as to the specific type types of data contained on the data carrier. The type of data or alternatively name of the data contained on the data carrier is deemed a matter of design choice wherein no stated problem is solved or unexpected result is obtained. It would have been obvious to one of ordinary skill in the art at the time of invention to have included access criteria, demographic data, a time stamp, a credit and debit indicator, an access log, a group ride indicator, an appointment time, a dietary restriction, a medical history, and/or an individual marker, in order to include data related to the access or ingress controlled by the activity station and utilized for authorization.

Regarding claims **23-26, 28-30, 39, 41, and 48**, and further in addition to the features taught above Koeznar is silent regarding the access log stored on the data carrier and positional determination features. In a related application however Malec teaches the inclusion of positional tracking information for the determination of transponder path (Abstract, Claim 1). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the access log and position determination features of Malec into the system of Koeznar in order to track user traffic and determine points of congestion.

Regarding claim **27**, Koeznar/Malec teach the use of positional tracking systems but are silent regarding the incorporation of a global-positioning satellite system(GPS). It would have been obvious to incorporate a GPS system in to the device of

Koeznar/Malec in order to avoid the cost of multiple inductive sensors (interrogators) in favor of utilizing a commercially available tracking system.

Regarding claim 49, Koeznar/Malec are silent regarding the encryption of data. It how ever would have been obvious to one of ordinary skill in the art at the time of invention to have used the well known convention of encryption to protect information from unauthorized users and/or tampering.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

